

State of California

CALIFORNIA HORSE RACING BOARD

**STATEMENT OF DECISION  
of the  
BOARD OF STEWARDS**

Del Mar Race Track

September 8, 2010

**In the Matter of: California Horse Racing Board v. Christian Santiago Reyes**  
Case number 10HP090

**INTRODUCTION**

Formal hearings were held before the Board of Stewards on July 25, 2010 and August 8, 2010, to address a complaint filed by the California Horse Racing Board (hereinafter “CHRB” or “Complainant”) against jockey Christian Santiago Reyes (hereinafter “Respondent” or “Mr. Reyes”). The complaint alleged violation of CHRB rules 1682 (Weighing Out) and 1684 (Items Included in Weight). The allegations outlined in the complaint were the following: “On June 6<sup>th</sup>, 2010 the Clerk of Scales (Ruben Hernandez) was weighing out jockeys for Race #1. Ruben Hernandez observed a bulge in the riding pants of jockey Cristian [sic] Reyes Santiago when he stepped onto the scales. The bulge was around the left knee area. Ruben Hernandez reached down and felt what appeared to be a one pound weight inside of Cristian [sic] Reyes Santiago’s riding pants.” Present at the hearings were Respondent (certified interpreter Daniel Tigueros interpreted for Mr. Reyes) represented by attorney Bing Bush, Complainant’s representatives CHRB Senior Investigator Jim Hamilton and Supervising Investigator William Westerman, Safety Steward Luis Jauregui and the Board of Stewards—C. Scott Chaney, Kim Sawyer, and Tom Ward. Witnesses testifying before this Board were Clerk of Scales Ruben Hernandez, Respondent, and Valet Osvaldo Ayala. During the first hearing, counsel for Respondent inquired as to whether the CHRB investigators had recorded their interviews during the investigative process. After learning that there were audio recordings of the interviews, Mr. Bush asked for a copy of the aforementioned recordings and a continuance in order to review that evidence. That request was granted and the hearing was continued for two weeks. In the interim, it appears that Respondent’s counsel had some difficulty in playing the recordings and approximately three days before the scheduled second hearing, he asked for a third continuance in this matter (an initial continuance was granted at both party’s request). Not satisfied that counsel had made enough of an effort to remedy the situation and cognizant of the fact that he had three days in which to remedy it, the request for a continuance was denied. Counsel then asked that the email transitions between he and the CHRB (Mr. Westerman) be included in the record. That evidence was moved into the record as will be outlined further in this ruling. The hearings were recorded by court reporter Barbara Weinstein.

Documentary evidence was submitted, oral argument was heard, the hearing was closed and the matter was deemed submitted.

### **LIST OF EXHIBITS**

Complainant (California Horse Racing Board) Exhibit A –CHRB Complaint 10HP090 with Investigative Report, Program, and license histories attached

Respondent (Reyes) Exhibit 1 – Email exchange between Mr. Bush and Mr. Westerman

### **FINDINGS OF FACT**

#### **I**

At all times, herein mentioned, Christian Santiago Reyes was licensed by the California Horse Racing Board in the license category of jockey.

#### **II**

On Sunday, June 6, 2010, the racehorse “Jenny Jenny Emily” was scheduled to run in the first race at Hollywood Park Race Track. She was assigned to carry 118 pounds.

#### **III**

At some point before the running of the first race, Respondent stepped onto the scale in order to “weigh out” for his ride in that race, and was observed by Clerk of Scales Ruben Hernandez, as required by CHRB Rules and Regulations.

#### **IV**

The first time Respondent stepped onto the scale, Mr. Hernandez reported that he was approximately one and a half pounds lighter than the required 118.

#### **V**

After stepping off of the scale and making adjustments, Respondent returned to the scale, stepped on, and before checking the weight, Mr. Hernandez observed an irregularity in Respondent’s riding pants just above the boot. Mr. Hernandez felt the object and by its shape, weight and his experience, determined that it was a one pound weight typically added to jockey saddles in order to reach the assigned weight.

#### **VI**

Mr. Hernandez did not observe the weight at this time, but instead, ordered Respondent to step off of the scale and to remove the aforementioned object. When Respondent stepped back onto the scale for a third time, Mr. Hernandez observed that he was the correct weight and allowed his equipment to be taken to the paddock for saddling.

## **VII**

Mr. Hernandez alerted the Board of Stewards to the irregularity. The Stewards directed the CHRB to investigate the matter and directed Mr. Hernandez to weight out Respondent for a fourth time before he left the Jockeys' room for the first race.

### **APPLICABLE RULES**

California Horse Racing Board 1682 (Weighing Out). All jockeys taking part in a race must be weighed out by the clerk of scales no more than one hour preceding the time fixed for the race. Any overweight in excess of one pound shall be declared by the jockey to the clerk of scales, who shall have such overweight and any change to jockeys posted immediately for public information and announced over the public address system.

California Horse racing Board 1684 (Items Included in Weight). A jockey's weight includes his riding clothing, saddle and pad. It shall not include the jockey's safety helmet, safety vest, whip or the horse's bridle.

### **DISCUSSION**

The issue before this Board of Stewards is whether or not Respondent used an item to make up part of his weight that is prohibited by CHRB rules during the weighing out process. The rules and regulations are clear with respect to which items are permitted to be used during weighing out (and while not germane here, weighing in) and also explains which items will *not* be counted when a jockey weighs out. In this particular case, the complaint alleges that Mr. Reyes attempted to use artificial weight in order to make up for the amount of weight that he was under the amount required. (This Board can also imagine situations in which jockeys may fail to include items that are required in situations where they may be over the required weight). What is not entirely clear to this Board, is how this alleged rule violation might aid Respondent in the overall process. Presumably, if Respondent was too light, and made the weight up with an extra item, he would want to remove that item before mounting his horse in order for his entrant to carry less than is required and thereby gain some unquantifiable advantage over his rivals. Obviously the problem with this scenario is that if successful, upon weighing in, Respondent would have had to make up that weight somehow, lest he weigh back in with less than the required weight. Fortunately for this Board, uncovering the motives and intent behind these alleged actions is not relevant to rules that the CHRB claims Respondent has violated. We must determine whether Respondent included prohibited items when weighing out in violation of CHRB rules. We have determined that he did.

In this case, the CHRB rules are clear and frankly require no interpretation with what they mean or intend. What this Board must determine are the facts. In order to meet its burden of preponderance of the evidence, the CHRB called only one witness—Clerk of Scales Ruben Hernandez. The CHRB rules and regulations designates the clerk

of scales as a racing official and describes his or her duties: “The clerk of scales shall verify the correct weight of each jockey at the time of weighing out and when weighing in, and he shall report any discrepancies to the stewards immediately. . . The Clerk of Scales shall be responsible to the stewards for the conduct of the jockeys and their attendants in the jockey room.” (CHRB Rule 1559). In this case, Mr. Hernandez, in performance of his duties, initially described Respondent’s left knee as “abnormal.” Upon further inspection, he felt the object and with years of experience and recognized its distinctive quality and shape stated that he had “no doubt [that the object] was a weight.” Respondent’s counsel attempted to discredit Mr. Hernandez’s testimony in several ways—none of which we find convincing. First, he implied that the fact that Mr. Hernandez did not check the weight when Respondent was on the scale with the alleged item somehow decreases the veracity of the observation. This is illogical and irrelevant. While interesting, it is not necessary in proving the alleged rule violations. Second, counsel attempted to show that Mr. Reyes never left the sight of the clerk of scales and therefore had no time to insert any items into his pants between the first and second weighing out times. The evidence was at least ambiguous and at most, demonstrated the opposite. Lastly, counsel seemed to believe that the fact that Mr. Hernandez did not require Respondent to remove the item at that moment in front of him and to show him what it was is somehow fatal to Complainant’s case. We certainly agree that the evidence would have been stronger had Mr. Hernandez visually identified the item that he felt but the fact that he did not, does not tip the evidence in Respondent’s favor. In reality, the identity of the item is not important, rather the presence of that item is the fact that is germane to the rule.

In addition to cross examining the Clerk of Scales, counsel for Respondent called two witnesses—his client Mr. Reyes and the valet who was present the first time Mr. Reyes stepped onto the scales, Osvaldo Ayala. Mr. Reyes testimony was somewhat equivocal. While he did say that this incident described by Mr. Hernandez never happened, he was less than clear about how many times he had even stepped onto the scale. We simply found Respondent’s testimony unclear and less than convincing. Also, Mr. Ayala, who appeared uncomfortable with being called as a witness, testified that he was not present when the actual incident occurred. Given this testimony, we believe that the preponderance of the evidence indicates that Mr. Reyes did have a prohibited item when weighing out for the first race on June 6, 2010 at Hollywood Park.

As described earlier, the motive behind this behavior is speculative at best. In fact, there was no testimony to that end. Affixing a penalty therefore is somewhat more difficult. However, given the importance of weight in horse racing and the plethora of rules that describe and regulate its assignment and subsequent procedure for assuring that the correct weight is carried by each participant, we believe that this is a serious violation. In addition, there is no logical explanation that negates an intent to violate the rules.

## **CONCLUSION**

For the foregoing reasons, this Board of Stewards finds that Respondent has violated CHRB rules 1682 (Weighing Out) and 1684 (Items Included in Weight) and

orders that his license be suspended for a period of thirty days. This suspension will begin on the eleventh racing day at Oak Tree at Hollywood Park 2010 and continue thirty days commensurate with thoroughbred racing in Southern California, inclusively. The terms are further outlined and memorialized in DMTD Ruling #95 dated September 8, 2010 and reproduced below:

DMTD Ruling #95

Jockey CHRISTIAN SANTIAGO REYES is suspended for thirty days (beginning the eleventh racing day at Oak Tree at Hollywood Park 2010 and continuing thirty racing days commensurate with thoroughbred racing in Southern California) for violation of California Horse Racing Board rules #1682 (Weighing Out) and #1684 (Items Included in Weight) for attempting to weigh out with a prohibited item in his possession prior to the first race at Hollywood Park on June 6, 2010.

DOB: 09-01-1989

LIC: 302068 exp. 09-2011

CASE: 10HP090

Board of Stewards

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C. Scott Chaney

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Kim Sawyer

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Tom Ward